IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10/08/2004

CORAM

THE HONOURABLE MR.JUSTICE M.CHOCKALINGAM

W.P.No.1160 of 2004

Madras Sheet Glass Works Pvt. Ltd.,
67A, Village Street, Thiruvottriyur
Chennai 600 019
Rep. by its Director .. Petitioner

-Vs-

State of Tamil Nadu
Rep. by its Secretary to Government
Revenue Department, Fort St. George,
Chennai 600 009. .. Respondent

This writ petition is filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records of the order of the respondent in G.O.Ms.No.629 Revenue (NNU.2 -1) Department dated 19.12.2003 and quashing the same.
!For Petitioner : Mr.Vijay Narayan
^For Respondent : Mr.P.Rathinavelu
Government Advocate
:ORDER

The petitioner before this Court seeks a writ of certiorari alleging that the petitioner is a Company incorporated under the provisions of the Companies Act, 1956; that it owned an extent of land in Thiruvottriyur Village; that it was found that an extent of 61,136 sq.m. was excess vacant land under the provisions of the Tamil Nadu Urban Land (Ceiling and Regulation) Act, 1978; that by G.O.Ms.No.202, Revenue Department, dated 23.1.1979, the Government granted exemption in respect of the said excess vacant land subject to certain conditions stipulated therein; that the petitioner applied for extension of time, and the same was also granted; that on 4.4.1996, the respondent State called upon the petitioner to show cause why exemption should not be withdrawn on the ground that the land was not put to use as specified in the exemption order; that again the petitioner had applied for further extension of time; that by G.O.Ms.No.700 dated 24.7.1997, the time was extended for a period of five years; that in that order, it was stated that out of 61,136 sq.m. the company had used only 37,236 sq.m. and the remaining portion of 23,900 was not utilized; that this 23 ,900 sq.m. was a low lying land, which is being filled up by the company for the purpose of making it worthy of use; that a further show cause notice was issued on 6.9.2000; that the petitioner caused a legal notice on 30.9.2000; that by Act

20 of 1999, the Tamil Nadu Urban Land (Ceiling and Regulation) Act was repealed, and by virtue of Section 4 of the Repealing Act, all proceedings relating to any order made or purported to be made pending immediately before the commencement of the Act, shall abate, if possession has not been taken over by the State Government.

2. The learned Counsel for the petitioner would submit that in the instant case, the possession continues to be with the petitioner, and it has not been taken over by the respondent State at any point of time, and now on 14.6.2002, a show cause notice has been issued calling upon the petitioner why the exemption should not be cancelled; that the petitioner had given a reply stating that in view of the Repealing Act, all the proceedings pending before that, would become abated, and apart from that, the possession was not taken over by the Government at any point of time, and under such circumstances, a writ of certiorari has got to be granted quashing the G.O.Ms.No.629 Revenue (NNU.2-1) Department dated 19.12.2003.

3. The learned Counsel for the petitioner has brought to the notice of the Court, a judgment of the Apex Court reported in JT 2000 SUPP 1 (SC) 295 (ANGOORI DEVI V. STATE OF U.P.), wherein the Apex Court has held that if the possession of the land had not been taken prior to the repeal, such possession cannot be taken thereafter, and no proceedings can be thereafter initiated under the repealed enactment. This Court is of the view that the said decision of the Apex Court would squarely apply to the present facts of the case. Following the same, it is a fit case where the impugned order is liable to be quashed.

4. In the result, this writ petition is allowed, quashing the order of the respondent dated 19.12.2003. No costs.

Index : yes
Internet: yes

To:
The Secretary to Government, Revenue Department,
Fort St. George, Chennai 600 009.

nsv/